

regulations on rulemaking at 24 CFR part 10. Part 10, however, provides in § 10.1 for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is “impracticable, unnecessary or contrary to the public interest.”

HUD finds that good cause exists to publish this rule for effect without soliciting public comment in that prior public procedure is “unnecessary.” This final rule merely follows the statutory directive in the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461) to make periodic increases in HUD’s civil money penalties by applying the adjustment formula established in the statute. Accordingly, because calculation of the increases is formula-driven, HUD has no discretion in updating the regulations to reflect the maximum allowable penalties derived from application of the formula. HUD emphasizes that this rule only addresses the matter of the calculation of the maximum civil money penalties for the respective violations described in the regulations. This rule does not address the issue of the Secretary’s discretion to impose or not to impose a penalty, nor the procedures that HUD must follow in initiating a civil money penalty action.

### III. Findings and Certifications

#### *Impact on Small Entities*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The reason for HUD’s determination is that all entities, small or large, will be subject to the same penalties as established by statute and implemented by this rule. There are not any unusual procedures that would need to be complied with by small entities.

#### *Environmental Impact*

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c), this rule is categorically excluded from the requirements of the National

Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

#### *Executive Order 13132, Federalism*

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive Order.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This final rule does not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

### List of Subjects

#### *24 CFR Part 25*

Administrative practice and procedure, Loan programs “housing and community development, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

#### *24 CFR Part 28*

Administrative practice and procedure, Claims, Fraud, Penalties.

#### *24 CFR Part 30*

Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Mortgages, Penalties.

#### *24 CFR Part 81*

Accounting, mortgages, Reporting and recordkeeping requirements, Securities.

#### *24 CFR Part 180*

Administrative practice and procedure, Aged, Civil Rights, Fair housing, Individuals with disabilities, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

#### *24 CFR Part 3282*

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes, Mortgages, Reporting and recordkeeping requirements.

#### *24 CFR Part 3500*

Consumer protection, Housing, Mortgages, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 25, 28, 30, 81, 180, 3282, and 3500 to read as follows:

### PART 25—MORTGAGEE REVIEW BOARD

1. The authority citation for part 25 continues to read as follows:

**Authority:** 12 U.S.C. 1708(c), 1708(d), 1709(s), 1715b and 1735(f)–14; 42 U.S.C. 3535(d).

2. Revise § 25.12 to read as follows:

#### **§ 25.12 Civil money penalties.**

The Board is authorized pursuant to section 536 of the National Housing Act (12 U.S.C. 1735(f)–14) to impose civil money penalties upon lenders and mortgagees, as set forth in 24 CFR part 30. The violations for which a civil money penalty may be imposed are listed in subpart B (Violations) of part 30. Hearings to challenge the imposition of civil money penalties shall be conducted according to the applicable rules of 24 CFR part 30.

### PART 28—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

3. The authority citation for part 28 continues to read as follows:

**Authority:** 28 U.S.C. 2461 note; 31 U.S.C. 3801; 42 U.S.C. 3535(d).

4. Amend § 28.10 by revising the introductory text of paragraphs (a) and (b)(1) to read as follows:

#### **§ 28.10 Basis for civil penalties and assessments.**

(a) *Claims.* A civil penalty of not more than \$6,500 may be imposed upon a person who makes a claim that the person knows or has reason to know:

\* \* \* \* \*

(b) *Statements.* (1) A civil penalty of up to \$6,500 may be imposed upon a person who makes a written statement that:

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